

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

SELENA DUNSON,

Plaintiff,

:

Case No. 3:10-cv-441

-vs-

Magistrate Judge Michael R. Merz

:

HOOVEN-DAYTON CORP,

Defendant.

DECISION AND ORDER DENYING PLAINTIFF'S MOTIONS TO COMPEL

This case is before the Court on Plaintiff's Motion to Compel Defendant to Answer Interrogatories (Doc. No. 38) and to Compel Production of Documents (Doc. No. 41).

The Motion to Compel Production of Documents does not show that there has been any previous request for documents or what response, if any, Defendant made to that request. Furthermore, the Motion does not contain the required certification by Plaintiff that she has attempted to resolve any dispute Defendant may have about producing these documents informally, but such a certificate is required by Fed. R. Civ. P. 37(a)(1). Finally, if this Motion represents an initial request for these documents, it is too late. The Scheduling Order in this case, entered April 19, 2011, provides in relevant part:

The discovery "cut-off" deadline means that all discovery must be concluded, as opposed to simply requested, by the discovery "cut-off" date. Purely as a hypothetical example, request for the production of documents, with a 30-day response time, must be served upon the opposing party in sufficient time to allow said party to respond prior to the discovery "cut-off" date.

(Doc. No. 19, PageID 58.)

The Motion to Compel Answers to Interrogatories appears to relate to an earlier set of interrogatories served on Defendant. However, it does not contain the required certificate that Plaintiff has attempted to resolve the discovery dispute by discussing it with Defendant's counsel.

For the foregoing reasons, the Motions to Compel are denied.

March 1, 2012.

s/ **Michael R. Merz**
United States Magistrate Judge